

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

September 17, 2012

Elisabeth A. Shumaker
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

LINDA JEAN MONTOYA,

Defendant - Appellant.

No. 12-8068
(D.C. No. 2:12-CV-00036-NDF and
1:10-CR-00206-NDF-2)

ORDER

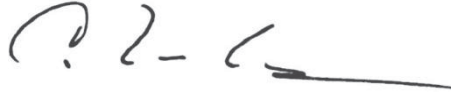
Based upon a review of the file for this § 2255 proceeding, it appears that appellant's notice of appeal (docket entry # 11) was filed prior to disposition of her motion for reconsideration (docket entry # 10) in which appellant seeks reconsideration of the denial of her § 2255 motion. Therefore, it appears that appellant's notice of appeal is ineffective to appeal the district court's July 30, 2012 order denying § 2255 relief. *See* Fed. R. App. P. 4(a)(4)(B).

Accordingly, the court **ABATES** proceedings in this appeal, pending notification that the district court has disposed of appellant's pending post-judgment motion.

When the district court enters its order, appellant shall notify this court in writing within 10 days. In addition, the clerk of the district court is requested to supplement the preliminary record by transmitting to this court a copy of the order, together with a copy of any related docket entries. *See* 10th Cir. R. 3.2(B). *See also* Fed. R. App. P.

4(a)(4)(B)(ii), regarding the filing of a new or amended notice of appeal, following the entry of an order disposing of a post-judgment motion.

Entered for the Court
ELISABETH A. SHUMAKER, Clerk

A handwritten signature in black ink, appearing to read 'Christine Van Coney', with a long horizontal line extending to the right.

by: Christine Van Coney
Counsel to the Clerk

**UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT
OFFICE OF THE CLERK**

Byron White United States Courthouse
1823 Stout Street
Denver, Colorado 80257
(303) 844-3157

Elisabeth A. Shumaker
Clerk of Court

September 17, 2012

Douglas E. Cressler
Chief Deputy Clerk

Ms. Linda Jean Montoya
11531-091
FCI - Victorville Medium II Satellite Camp
P.O. Box 5300
Adelanto, CA 92301

RE: 12-8068, United States v. Montoya
Dist/Ag docket: 2:12-CV-00036-NDF, 1:10-CR-00206-NDF-2

Dear Appellant:

Enclosed please find an order issued today by the court.

Please contact this office if you have questions.

Sincerely,



Elisabeth A. Shumaker
Clerk of the Court

cc: Stephanie Irene Sprecher

EAS/sls